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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,473	02/18/2004	John Radkowski	RAD01	3126
7590	10/20/2005		EXAMINER	
Kelly A. Merkel 100 Dudley Street, Apt. 2343 Jersey City, NJ 07302			CHHABRA, ARUN S	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,473

Applicant(s)

RADKOWSKI ET AL.

Examiner

Arun S. Chhabra

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/18/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/18/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

[1] Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract exceeds 150 words and is longer than 10 lines. Additionally, the use of legal phraseology such as "said" in line 12, "means for" in line 22 and "comprises" in lines 10 is claim language and not considered proper language for an abstract.

The disclosure is objected to because of the following informalities: In line 25 of the "Detailed Description of the Preferred Embodiments," Figure 3, describing the collapsible nature of the apparatus, should be figure 2, as figure 2 is what describes the collapsible aspect of the apparatus.

Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: There are two periods instead of one at the end of claim 1 leading one to believe it could be an ellipsis which would not be proper claim format. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 3 is rejected under 35 U.S.C. 112, sixth paragraph, as not meeting the requirements of the 3-prong test for using the means plus function statement. The three-prong analysis states:

- 1) The claim limitations must use the phrase "means for" or "step for".
- 2) The "means for" or "step for" must be modified by functional language.
- 3) The phrase "means for" or "step for" must not be modified by sufficient structure, material, or acts for achieving the specified function.

Claim 3 gives the structure of a handle and exact method of achieving the "means for frictional engagement," and thus does not meet the guidelines set forth under 35 U.S.C. 112, sixth paragraph.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Rich et al. (US Patent Number 5,330,143). Rich discloses an elongate member of intussusceptible portions which are slidable relative to one another, having upper and lower free extents. Rich also discloses a truss member for support of the device, and a non-rotatable cross member whereupon a limb could be supported. The intussusceptible portions utilize a clamping member with a handle and stem that is turned to achieve its means of frictional engagement and the cross member is integral with the cross bar clamp and the limb support portion of the invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rich in view of Du Mais (US Patent Number 2,864,577).

Rich discloses the claimed invention except for the collapsible and retractable legs. Du Mais teaches that it is known to make retractable or collapsible legs for any base structure as set forth in column 3, lines 7-12, to allow the structure to be compact when needed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the stand as taught by Rich, with a collapsible leg structure as taught by Du Mais, since such a modification would provide the apparatus with slidable and retractable legs for a compact and collapsible base.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rich in view of Freye (US Patent Number 5,300,002).

Rich discloses the claimed invention except for the ability of the limb support to slide along the longitudinal axis of the cross bar. Freye teaches that it is known to have a limb support that slides across a bar as set forth in column 6, lines 39-40 to provide different locations from which a user's limb can be placed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the stand as taught by Rich, with a sliding portion for limb placement as taught by Freye, since such a modification would provide the stand with a sliding, limb support portion for allowing the user to place their limb on any longitudinal point along the cross bar.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rich in view of Rota (US Patent Number 6,652,419).

Rich discloses the claimed invention except for the telescopic cross bar. Rota teaches that it is known to use a telescopic cross bar as set forth in column 4, lines 11-18 to provide a way of adjusting the bar to different lengths. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the stand as taught by Rich, with a telescopic cross bar as taught by Rota, since such a modification would provide the stand with a telescopic cross bar for adjusting the length as desired by the user. Additionally, the clamping member referred to in claim 9 can be of similar fashion to the clamping member used to lock the telescopic members on the vertical bar and thus have no patentability.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rich in view of McLeon (US Patent Number 5,518,476).

Rich discloses the claimed invention except for the visual or tactile indicia. McLeon teaches that it is known to use such indicia as set forth in column 10, lines 5-64 to allow the user to manually adjust settings and to give the user feedback during the use of the apparatus. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the stand as taught by Rich, with indicia as taught by McLeon, since such a modification would provide the stand with visual or tactile indicia for giving the user feedback during their use of the apparatus and for allowing the user to change settings of the apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Chhabra whose telephone number is 571-272-7330. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Gregory L. Huson', is written in a cursive style.

GREGORY L. HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700